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Solution Providers: Oracle Suing SAP Over Standard Industry Practice

By Stacy Cowley, CRN
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Oracle (NSDQ:ORCL)'s lawsuit against archrival SAP (NYSE:SAP) plays up SAP's alleged practice of accessing confidential Oracle customer-support materials using the log-in credentials of Oracle customers who have contracted with SAP's TomorrowNow subsidiary for support services -- a practice Oracle attacks as improper "pretexting." But other third-party software and consulting solutions providers say such use of clients' log-in IDs and passwords is a routine and legal part of the business.

"It's very common for consultants to be authorized by a customer on their behalf to go get updates and products. The key is 'are they authorized?'" said Seth Ravin, CEO of Rimini Street, a Las Vegas services firm that specializes in supporting the Siebel, PeopleSoft and J.D. Edwards applications Oracle gained through acquisitions. "We're no different than implementation partners and customization partners, who also do that all the time."

Oracle's lawsuit, filed yesterday in U.S. District Court in San Francisco, castigates SAP for accessing Oracle's systems "under false pretexts," using the log-in IDs of more than two dozen customers that were in the process of dropping Oracle's support services in favor of those provided by SAP's TomorrowNow unit. But other support providers, including Rimini Street and NetCustomer, say their employees have similarly tapped Oracle's support resources on behalf of their clients.

"Consultants will access vendor sites for a variety of things. It's a common practice across the industry," said NetCustomer CEO Punita Pandey, whose San Jose, Calif., firm also provides support for Oracle's acquired applications lines. "Some customers have enough staff of their own to go in and [download support materials]; in other cases, they ask the contractor to do it."

Oracle's legal filing briefly acknowledges that SAP's employees may have had legitimate grounds, as contractors acting on clients' behalf, for using Oracle customers' credentials to access its support materials. Oracle's case also rests on a complaint that SAP's employees downloaded materials beyond those their clients had legal rights to access. Oracle's product licenses grant customers rights to take only those support materials that pertain to their licensed products, but Oracle logged automated mass downloads to SAP's servers that sucked in support materials for products beyond the scope of TomorrowNow's customers' licensed Oracle software, according to the lawsuit.

"After switching to SAP TN, a user employing Honeywell's log-in ID downloaded over 7,000 software and support materials in less than two weeks in January 2007. ... Over 2,000 of the software and support materials taken in this period were solutions that Honeywell was not licensed to take at all," Oracle wrote. "Honeywell used and licensed PeopleSoft software applications, but Oracle discovered users downloading JDE products with Honeywell's credentials."

Services providers said that aspect of the lawsuit raises troubling questions about why users had access to materials they weren't legally permitted to take -- and about whose responsibility it is to police access rights.

"If it's ambiguous about what customers are given the opportunity to download and what they have rights to download, that just gives everyone the willies," Ravin said. "I don't think most customers want decisions about what's legally appropriate to access being left to their consultants, or even to their line-of-business employees."

NetCustomer's Pandey said she hadn't encountered a problem in her own business about the legality of access rights, but she doubted responsibility should rest solely with the user.

"If you're a technology company, you'd better know how to restrict

access," Pandey said. She compared the situation to buying a television. If the retailer crams add-ons in the box, is it the customer's fault for taking them home?

A representative of Honeywell declined to comment on the company's arrangement with SAP's TomorrowNow organization.

TomorrowNow, Rimini Street and NetCustomer all compete in a relatively new market: the business of providing external maintenance for enterprise applications at a lower cost than vendors' official support services. It's a business Oracle itself has recently entered with its "Unbreakable Linux" service offering support for Red Hat Linux. While good at grabbing headlines, the market has been slow to develop.

Oracle's legal attack on SAP may be a sign that the economics are starting to shift in the third-parties' favor, according to analyst Josh Greenbaum of Enterprise Applications Consulting in Berkeley, Calif.

"If TomorrowNow could talk, they'd probably say their pipeline has really expanded," he said. "If you look at the companies listed in the lawsuit, it's like a 'who's who' of companies you'd want as your customers. The damage is definitely being done."

Maintenance revenue is the crown jewel of enterprise software companies. Like most of its rivals, Oracle makes more on the back-end from support fees than it does up front off license sales. Last year, Oracle brought in $4.9 billion from license sales and $6.6 billion in support fees.

Oracle charges 22 percent annually of the initial license purchase price for its support services, a rate third-party providers frequently offer to cut in half. Their target audience is customers with stable applications who are more interested patches and routine updates than new functionality.

NetCustomer's Pandey said business has built slowly but is gaining momentum. Like Greenbaum, she views Oracle's lawsuit as a sign that it's feeling the heat.

"I think most software vendors are worried about protecting this revenue stream. It's giving them huge margins -- upward of 80 percent -- and it costs them little," Pandey said. "The trend is picking up to where it's actually hurting. If it had no impact, Oracle wouldn't worry about TomorrowNow. This is a clear indication it's beginning to get to the bottom line."

TomorrowNow set up shop in 2002 and was acquired by SAP in 2005. (Rimini Street's Ravin helped found the company, then left in the wake of the SAP buyout and launched a competitor.) Oracle's lawsuit insinuates that TomorrowNow depends on support materials improperly grabbed from Oracle --"corporate theft on a grand scale," in the lawsuit's rhetoric -- to provide services it could not otherwise deliver. But the filing details infractions beginning in Nov. 2006, years after TomorrowNow began competing with Oracle.

Third-party support providers are eager to draw a bright line dividing the specific improprieties detailed in Oracle's case against SAP and the overall legality of their industry.

"I think the most important thing to realize about this case is that this is not Oracle suing SAP TomorrowNow for being in the business of providing third-party support," Ravin said.

But Greenbaum worries the legal wrangling could cast a pall over the entire business model.

"Oracle is acting in a fashion that's detrimental to the needs of customers in trying to stop this business -- and it's clear to me they're trying to put TomorrowNow out of business," he said. "Customers want this option and should get it. Look at what Oracle is doing with Red Hat. It's responding to the same customer need. If Oracle's lawsuit puts a damper on this industry, that would be bad for everybody."

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